

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ANTHONY J. ZUK,

Civil No. 06-972 (JNE/JSM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

JO ANNE B. BARNHART,

Defendant.

Plaintiff commenced this action on March 6, 2006, by filing a complaint and an application for leave to proceed in forma pauperis, ("IFP"). The Court examined the IFP application, and found it to be incomplete. Plaintiff was granted leave to file an amended IFP application, and he did so on April 11, 2006. The Court then examined Plaintiff's amended IFP application, and determined that he had not adequately demonstrated that he is indigent and unable to pay the \$250 filing fee prescribed by 28 U.S.C. § 1914(a). Therefore, by order dated April 14, 2006, (Docket No. 5), Plaintiff's amended IFP application was denied.

The Court's order of April 14, 2006, informed Plaintiff that although he would not be granted IFP status, he could still maintain this action if he paid the statutory filing fee. Plaintiff was advised that if he intended to pursue his claims in this action as a non-IFP litigant, he would have to pay the full \$250 filing fee within twenty days. Plaintiff was further advised that if he did not pay the \$250 filing fee within twenty days, it would be recommended that his action be dismissed, without prejudice, pursuant to Fed. R. Civ. P. 41(b).

The deadline for paying the filing fee established by the Court's prior order has now passed. To date, however, Plaintiff has not paid his filing fee, nor has he contacted the Court, or communicated with the Court, in any way. Therefore, it is now recommended, in accordance with the Court's prior order, that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: May 18, 2006

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **June 5, 2006**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.